

HOUSE No. 2461

By Mr. Miceli of Wilmington (by request), petition of M. Ronald Mendes relative to the collection of personal property taxes. Revenue.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE COLLECTION OF PERSONAL PROPERTY TAXES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 60 of the General Laws is hereby
2 amended by inserting the following new section:—

3 Section 37C. Security Interest on taxable personal property.

4 Taxes assessed upon personal property under the provisions of
5 chapter fifty-nine, including section eighteen, with all accrued
6 interest, incidental charges and fees provided for in chapter fifty-
7 nine, and other provisions of this chapter shall be a security
8 interest in the personal property so taxed, as well as all after
9 acquired consumer goods, equipment and inventory and the pro-
10 ceeds from the sale of any such personal property until the secu-
11 rity interest is terminated as provided in this section.

12 The assessment of personal property taxes by a municipal
13 board of assessors shall have the force and effect of a signed secu-
14 rity agreement under the provisions of chapter one hundred-six,
15 hereinafter referred to in this section as “the Uniform Commercial
16 Code.” The security interest shall have the force and effect of an
17 unperfected security interest in accordance with the provisions of
18 the Uniform Commercial Code and once perfected shall have the
19 force and effect of a perfected security interest in accordance with
20 the provisions of the Uniform Commercial Code.

21 The unperfected security interest shall be perfected upon:
22 (1) nonpayment of the tax, including partial nonpayment, fourteen
23 days after the mailing of the demand in accordance with section
24 sixteen of this chapter; and, (2) the filing of a financing statement

25 by the municipal collector at the office of the state secretary in
26 accordance with the provisions of the Uniform Commercial Code,
27 provided that the collector may file a financing statement no ear-
28 lier than fourteen days following the mailing of a demand to the
29 taxpayer.

30 The collector shall, upon perfection of the security interest, add
31 the cost of filing the financing statement and the cost of filing a
32 termination statement plus an additional fee of five dollars for the
33 preparation of the financing statement and an additional fee of
34 five dollars for the preparation of a termination statement to the
35 balance due.

36 If it appears to the collector that a filed financing statement is
37 going to lapse, the collector shall file a continuation statement, as
38 well as succeeding continuation statements in accordance with the
39 provisions of the Uniform Commercial Code, to continue the
40 effectiveness of the initial financing statement, adding to the bal-
41 ance due the cost of filing each necessary continuation statement
42 plus a fee of five dollars for their preparation.

43 Once the balance due, including the tax, accrued interest, inci-
44 dental charges, and fees as provided by chapter fifty-nine and
45 other provisions of this chapter have been fully abated or fully
46 paid the security interest provided for under this section shall ter-
47minate, and if the security interest was perfected, the collector or
48 an assignee of the collector shall file a termination statement at
49 the office of the state secretary in accordance with the provisions
50 of the Uniform Commercial Code.

51 The collector may assign an underlying personal property tax
52 receivable in accordance with the procedures provided for in
53 section 2C of this chapter provided that the provisions of the Uni-
54 form Commercial Code governing the assignment of a security
55 interest are also followed. In the event of a direct conflict
56 between section 2C of this chapter and the provisions of the Uni-
57 form Commercial Code, the provisions of the Uniform Commer-
58 cial Code shall control as to the assignment of the security interest
59 and the provisions of this chapter shall control as to the assign-
60 ment of the tax receivable.

61 If a tax receivable and security interest has not previously been
62 assigned, the collector shall assign the tax receivable and the secu-
63 rity interest, in accordance with the provisions of the Uniform

64 Commercial Code, to any other secured party holding a concurrent
65 security interest in the same personal property, regardless of when
66 the other secured party's interest was perfected, if that secured
67 party fully pays the balance due to the collector.

68 All remedies available to holders of secured interests under the
69 provision of the Uniform Commercial Code for default of an
70 underlying obligation shall be available to the collector or to an
71 assignee to collect the balance due and the use of the provisions of
72 the Uniform Commercial Code by the collector or an assignee
73 shall not interfere with the ability of the collector or an assignee to
74 use other remedies, including the further accrual of interest on the
75 tax receivable, as provided in chapter fifty-nine, this chapter or
76 any applicable provision of law to collect the balance due.

77 All terms used in this section shall be defined by reference to
78 those terms as they are used under the Uniform Commercial Code,
79 unless specific reference is made in this section to another provi-
80 sion of law.

1 SECTION 2. Section 95 of chapter 60 is hereby amended by
2 inserting at the end of the first sentence the words:— “; and upon
3 the filing of a financing statement in accordance with the provi-
4 sions of Section 37C and the provisions of the Uniform Commer-
5 cial Code, with the amount of the uncollected personal property
6 taxes represented by the financing statement.”

1 SECTION 3. This Act shall take effect on January 1, 2006.